

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 259

FINAL READING

Introduced by Utter, 33.

Read first time January 14, 2009

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to deposit and investment of public funds;
2 to amend sections 2-4214, 12-1102, 12-1107, 14-556,
3 15-847, 15-849, 16-713, 16-715, 16-716, 17-607, 17-720,
4 30-3209, 72-1268.03, 77-2305, 77-2318, 77-2326.04,
5 77-2340, 77-2344, 77-2345, 77-2352, 77-2355, 77-2362,
6 77-2375, 77-2385, 77-2388, 77-2389, 77-2395, 77-2398,
7 77-23,100, 77-23,101, 77-23,102, and 77-23,105, Reissue
8 Revised Statutes of Nebraska, and sections 77-2365.02
9 and 77-2387, Revised Statutes Cumulative Supplement,
10 2008; to clarify Federal Deposit Insurance Corporation
11 coverage; to harmonize provisions; to provide a duty for
12 the Revisor of Statutes; to repeal the original sections;
13 and to declare an emergency.

LB 259

LB 259

1 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-4214, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-4214 The corporation shall have the following duties:

4 (1) To invest any funds not needed for immediate
5 disbursement, including any funds held in reserve, in direct and
6 general obligations of or obligations fully and unconditionally
7 guaranteed by the United States of America; obligations issued
8 by agencies of the United States of America; obligations of
9 this state or of any political subdivision except obligations
10 of sanitary and improvement districts organized under Chapter
11 31, article 7; certificates of deposit of banks whose deposits
12 are insured or guaranteed by the Federal Deposit Insurance
13 Corporation or collateralized by deposit of securities with
14 the secretary-treasurer of the corporation, as, and to the
15 extent not covered by insurance or guarantee, with securities
16 which are eligible for securing the deposits of the state or
17 counties, school districts, cities, or villages of the state;
18 certificates of deposit of capital stock financial institutions as
19 provided by section 77-2366; certificates of deposit of qualifying
20 mutual financial institutions as provided by section 77-2365.01;
21 repurchase agreements which are fully secured by any of such
22 securities or obligations which may be unsecured and unrated,
23 including investment agreements, of any corporation, national bank,
24 capital stock financial institution, qualifying mutual financial
25 institution, bank holding company, insurance company, or trust

1 company which has outstanding debt obligations which are rated
2 by a nationally recognized rating agency in one of the three
3 highest rating categories established by such rating agency; or any
4 obligations or securities which may from time to time be legally
5 purchased by governmental subdivisions of this state pursuant to
6 subsection (1) of section 77-2341;

7 (2) To collect fees and charges the corporation
8 determines to be reasonable in connection with its loans, advances,
9 insurance commitments, and servicing;

10 (3) To cooperate with and exchange services, personnel,
11 and information with any federal, state, or local governmental
12 agencies;

13 (4) To sell, assign, or otherwise dispose of at public or
14 private sale, with or without public bidding, any mortgage or other
15 obligations held by the corporation; and

16 (5) To do any act necessary or convenient to the exercise
17 of the powers granted by the Conservation Corporation Act or
18 reasonably implied from it.

19 Sec. 2. Section 12-1102, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 12-1102 For purposes of the Burial Pre-Need Sale Act,
22 unless the context otherwise requires:

23 (1) Agent shall mean any person who acts for or on behalf
24 of a pre-need seller in making pre-need sales;

25 (2) Burial or funeral merchandise or services shall mean

1 all items of real or personal property or a combination of both
2 or services, sold or offered for sale to the general public
3 by any pre-need seller, which may be used in any manner in
4 connection with a funeral or the interment, entombment, inurnment,
5 or other alternate disposition of human remains. Such term shall
6 not include a lot or grave space or a crypt or niche located in a
7 mausoleum, columbarium, or lawn crypt upon which construction has
8 been substantially completed;

9 (3) Columbarium shall mean an aboveground structure or
10 building which is used or intended to be used for the inurnment
11 of human remains in a niche. A columbarium may be combined with a
12 mausoleum;

13 (4) Crypt or niche shall mean a chamber in a lawn crypt,
14 columbarium, or mausoleum of sufficient size to inter or entomb
15 cremated or noncremated human remains;

16 (5) Delivery shall mean the act of performing the service
17 required by or the act of placing the item purchased in the
18 physical possession of the pre-need purchaser, including, but not
19 limited to, the installing or depositing of the item sold on or
20 in real property owned by or designated by the person entitled to
21 receive such item, except that (a) the pre-need burial of a vault
22 shall constitute delivery only if the burial is with the consent
23 of the pre-need purchaser and the pre-need seller has made other
24 pre-need vault burials prior to January 1, 1986, and (b) delivery
25 of a crypt or niche in a mausoleum, lawn crypt, or columbarium or

1 a marker or monument may be accomplished by delivery of a document
2 of title;

3 (6) Department shall mean the Department of Insurance;

4 (7) Director shall mean the Director of Insurance;

5 (8) Document of title shall mean a deed, bill of sale,
6 warehouse receipt, or any other document which meets the following
7 requirements:

8 (a) The effect of the document is to immediately vest the
9 ownership of the item described in the person purchasing the item;

10 (b) The document states the exact location of such item;
11 and

12 (c) The document gives assurances that the item described
13 exists in substantially completed form and is subject to delivery
14 upon request;

15 (9) Human remains shall mean the body of a deceased
16 person;

17 (10) Lawn crypt shall mean an inground burial receptacle
18 of single or multiple depth, installed in multiples of ten or more
19 in a large mass excavation, usually constructed of concrete and
20 installed on gravel or other drainage underlayment and which acts
21 as an outer container for the interment of human remains;

22 (11) Letter of credit shall mean an irrevocable
23 undertaking issued by any financial institution which qualifies as
24 a trustee under the Burial Pre-Need Sale Act, given to a pre-need
25 seller and naming the director as the beneficiary, in which the

1 issuer agrees to honor drafts or other demands for payment by the
2 beneficiary up to a specified amount;

3 (12) Lot or grave space shall mean a space in a cemetery
4 intended to be used for the inground interment of human remains;

5 (13) Marker, monument, or lettering shall mean an object
6 or method used to memorialize, locate, and identify human remains;

7 (14) Master trust agreement shall mean an agreement
8 between a pre-need seller and a trustee, a copy of which has been
9 filed with the department, under which proceeds from pre-need sales
10 may be deposited by the pre-need seller;

11 (15) Mausoleum shall mean an aboveground structure or
12 building which is used or intended to be used for the entombment
13 of human remains in a crypt. A mausoleum may be combined with a
14 columbarium;

15 (16) Pre-need purchaser shall mean a member of the
16 general public purchasing burial or funeral merchandise or services
17 or a marker, monument, or lettering from a pre-need seller for
18 personal use;

19 (17) Pre-need sale shall mean any sale by any pre-need
20 seller to a pre-need purchaser of:

21 (a) Any items of burial or funeral merchandise or
22 services which are not purchased for the immediate use in a
23 funeral or burial of human remains;

24 (b) Any unspecified items of burial or funeral
25 merchandise or services which items will be specified either at

1 death or at a later date; or

2 (c) A marker, monument, or lettering which will not be
3 delivered within six months of the date of the sale;

4 (18) Pre-need seller shall mean any person, partnership,
5 limited liability company, corporation, or association on whose
6 behalf pre-need sales are made to the general public;

7 (19) Substantially completed shall mean that time when
8 the mausoleum, columbarium, or lawn crypt being constructed is then
9 ready for the interment, entombment, or inurnment of human remains;

10 (20) Surety bond shall mean an undertaking given by an
11 incorporated surety company naming the director as the beneficiary
12 and conditioned upon the faithful performance of a contract for
13 the construction of a mausoleum, columbarium, or lawn crypt by a
14 pre-need seller;

15 (21) Trust account shall mean either a separate trust
16 account established pursuant to the Burial Pre-Need Sale Act for
17 a specific pre-need purchaser by a pre-need seller or multiple
18 accounts held under a master trust agreement when it is required by
19 the act that all or some portion of the proceeds of such pre-need
20 sale be placed in trust by the pre-need seller;

21 (22) Trustee shall mean a bank, trust company, building
22 and loan association, or credit union within the state whose
23 deposits or accounts are insured or guaranteed by the Federal
24 Deposit Insurance Corporation or the National Credit Union Share
25 Insurance Fund;

1 (23) Trust principal shall mean all deposits, including
2 amounts retained as required by section 12-1114, made to a trust
3 account by a pre-need seller less all withdrawals occasioned by
4 delivery or cancellation; and

5 (24) Vault shall mean an item of burial or funeral
6 merchandise or services which is an inground burial receptacle
7 installed individually, as opposed to lawn crypts, which is
8 constructed of concrete, steel, or any other material, and which
9 acts as an outer container for the interment of human remains.

10 Sec. 3. Section 12-1107, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 12-1107 (1) Banks which do not have a separate trust
13 department and building and loan associations and credit unions
14 acting as trustees under the Burial Pre-Need Sale Act shall accept
15 trust funds only to the extent that the full amount of all of such
16 funds is insured or guaranteed by the Federal Deposit Insurance
17 Corporation or the National Credit Union Share Insurance Fund.

18 (2) Banks with a separate trust department and trust
19 companies acting as trustees under the Burial Pre-Need Sale Act
20 when investing or reinvesting trust funds shall have the power to
21 deal with such funds as a prudent trustee would deal with the
22 funds and shall have all of the powers granted to a trustee by the
23 Nebraska Uniform Trust Code, but the Uniform Principal and Income
24 Act shall not be applicable and all income, whether from interest,
25 dividends, capital gains, or any other source, shall be considered

1 as income.

2 Sec. 4. Section 14-556, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 14-556 (1) The city treasurer shall place all funds of
5 the city, as the same accrue, on deposit in such banks, capital
6 stock financial institutions, or qualifying mutual financial
7 institutions within the city as shall agree to pay the highest
8 rate of interest for the use of such funds so deposited. The city
9 council is hereby directed to advertise for bids for rates for the
10 deposit of such funds as is hereby contemplated.

11 (2) The banks, capital stock financial institutions, or
12 qualifying mutual financial institutions referred to in subsection
13 (1) of this section, so selected, shall:

14 (a) Give bond to the city for the safekeeping of such
15 funds, and such city shall not have on deposit in any bank,
16 capital stock financial institution, or qualifying mutual financial
17 institution giving a guaranty bond more than the amount insured
18 or guaranteed by the Federal Deposit Insurance Corporation plus
19 the maximum amount of the bond given by the bank, capital stock
20 financial institution, or qualifying mutual financial institution
21 or in any bank, capital stock financial institution, or qualifying
22 mutual financial institution giving a personal bond more than
23 the amount insured or guaranteed by the Federal Deposit Insurance
24 Corporation plus one-half of the amount of the bond of the bank,
25 capital stock financial institution, or qualifying mutual financial

1 institution. All bonds of such banks, capital stock financial
2 institutions, or qualifying mutual financial institutions shall be
3 deposited with and held by the city treasurer; or

4 (b) Give security as provided in the Public Funds Deposit
5 Security Act.

6 (3) The fact that a stockholder, director, or other
7 officer of such bank, capital stock financial institution, or
8 qualifying mutual financial institution is also serving as mayor,
9 as a member of the city council, as a member of a board of
10 public works, or as any other officer of such municipality shall
11 not disqualify such bank, capital stock financial institution, or
12 qualifying mutual financial institution from acting as a depository
13 for such municipal funds.

14 (4) Section 77-2366 shall apply to deposits in capital
15 stock financial institutions.

16 (5) Section 77-2365.01 shall apply to deposits in
17 qualifying mutual financial institutions.

18 Sec. 5. Section 15-847, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 15-847 In lieu of the bond required by section 15-846,
21 any bank, capital stock financial institution, or qualifying mutual
22 financial institution making application to become a depository may
23 give security as provided in the Public Funds Deposit Security
24 Act to the city treasurer. The penal sum of such bond or the
25 sum of such security may be reduced in the amount of such

1 deposit insured or guaranteed by the Federal Deposit Insurance
2 Corporation. Section 77-2366 shall apply to deposits in capital
3 stock financial institutions. Section 77-2365.01 shall apply to
4 deposits in qualifying mutual financial institutions.

5 Sec. 6. Section 15-849, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 15-849 The city treasurer may purchase certificates of
8 deposit from and make time deposits in banks, capital stock
9 financial institutions, or qualifying mutual financial institutions
10 selected as depositories of city funds pursuant to sections 15-846
11 to 15-848. The certificates of deposit purchased and time deposits
12 made shall bear interest and shall be secured as prescribed in such
13 sections. The penal sum of such bond or the sum of such security
14 shall be reduced in the amount of the time deposit or certificate
15 of deposit insured or guaranteed by the Federal Deposit Insurance
16 Corporation. Section 77-2366 shall apply to deposits in capital
17 stock financial institutions. Section 77-2365.01 shall apply to
18 deposits in qualifying mutual financial institutions.

19 Sec. 7. Section 16-713, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 16-713 The city treasurer may, upon resolution of the
22 mayor and council authorizing the same, purchase certificates
23 of deposit from and make time deposits in banks, capital stock
24 financial institutions, or qualifying mutual financial institutions
25 selected as depositories of city funds under the provisions of

1 sections 16-712, 16-714, and 16-715. The certificates of deposit
2 purchased and time deposits made shall bear interest and shall be
3 secured as set forth in sections 16-714 and 16-715, except that
4 the penal sum of such bond or the sum of such security shall
5 be reduced in the amount of the time deposit or certificate of
6 deposit insured or guaranteed by the Federal Deposit Insurance
7 Corporation. Section 77-2366 shall apply to deposits in capital
8 stock financial institutions. Section 77-2365.01 shall apply to
9 deposits in qualifying mutual financial institutions.

10 Sec. 8. Section 16-715, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 16-715 In lieu of the bond required by section 16-714,
13 any bank, capital stock financial institution, or qualifying mutual
14 financial institution making application to become a depository may
15 give security as provided in the Public Funds Deposit Security Act
16 to the city clerk. The penal sum of such bond shall be equal to or
17 greater than the amount of the deposit in excess of that portion of
18 such deposit insured or guaranteed by the Federal Deposit Insurance
19 Corporation. Section 77-2366 shall apply to deposits in capital
20 stock financial institutions. Section 77-2365.01 shall apply to
21 deposits in qualifying mutual financial institutions.

22 Sec. 9. Section 16-716, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 16-716 The treasurer shall not have on deposit in any
25 bank, capital stock financial institution, or qualifying mutual

1 financial institution at any time more than the amount insured
2 or guaranteed by the Federal Deposit Insurance Corporation plus
3 the maximum amount of the bond given by the bank, capital stock
4 financial institution, or qualifying mutual financial institution
5 if the bank, capital stock financial institution, or qualifying
6 mutual financial institution gives a surety bond, nor in any bank,
7 capital stock financial institution, or qualifying mutual financial
8 institution giving a personal bond, more than the amount insured
9 or guaranteed by the Federal Deposit Insurance Corporation plus
10 one-half of the amount of the bond of such bank, capital stock
11 financial institution, or qualifying mutual financial institution,
12 and the amount so on deposit any time with any such bank,
13 capital stock financial institution, or qualifying mutual financial
14 institution shall not in either case exceed the amount insured
15 or guaranteed by the Federal Deposit Insurance Corporation plus
16 the paid-up capital stock and surplus of such bank, capital stock
17 financial institution, or qualifying mutual financial institution.

18 The city treasurer shall not be liable for any loss
19 sustained by reason of the failure of any such bonded depository
20 whose bond has been duly approved by the mayor as provided in
21 section 16-714 or which has, in lieu of a surety bond, given
22 security as provided in section 16-715.

23 Sec. 10. Section 17-607, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 17-607 (1) The treasurer of a city of the second class

1 or village shall deposit, and at all times keep on deposit,
2 for safekeeping, in banks, capital stock financial institutions,
3 or qualifying mutual financial institutions of approved and
4 responsible standing, all money collected, received, or held by
5 him or her as city or village treasurer. Such deposits shall
6 be subject to all regulations imposed by law or adopted by the
7 city council or board of trustees for the receiving and holding
8 thereof. The fact that a stockholder, director, or other officer
9 of such bank, capital stock financial institution, or qualifying
10 mutual financial institution is also serving as mayor, as a member
11 of the city council, as a member of the board of trustees, as a
12 member of a board of public works, or as any other officer of
13 such municipality shall not disqualify such bank, capital stock
14 financial institution, or qualifying mutual financial institution
15 from acting as a depository for such municipal funds. Section
16 77-2366 shall apply to deposits in capital stock financial
17 institutions. Section 77-2365.01 shall apply to deposits in
18 qualifying mutual financial institutions.

19 (2) The council or board of trustees shall require from
20 all banks, capital stock financial institutions, or qualifying
21 mutual financial institutions (a) a bond in such penal sum as
22 may be the maximum amount on deposit at any time less the amount
23 insured or guaranteed by the Federal Deposit Insurance Corporation
24 or, in lieu thereof, (b) security given as provided in the Public
25 Funds Deposit Security Act, to secure the payment of all such

1 deposits and accretions. The council or board shall approve such
2 bond or giving of security. The city treasurer or village treasurer
3 shall not be liable for any loss of any money sustained by reason
4 of the failure of any such depository so designated and approved.

5 Sec. 11. Section 17-720, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 17-720 The city or village treasurer of cities of the
8 second class and villages may, upon resolution of the mayor
9 and council or board of trustees authorizing the same, purchase
10 certificates of deposit from and make time deposits in any bank,
11 capital stock financial institution, or qualifying mutual financial
12 institution in the State of Nebraska to the extent that such
13 certificates of deposit or time deposits are insured or guaranteed
14 by the Federal Deposit Insurance Corporation. Deposits may be made
15 in excess of the amounts so secured by the corporation, and the
16 amount of the excess deposit shall be secured by a bond or by
17 security given in the same manner as is provided for cities of the
18 first class in sections 16-714 to 16-716 as of the time the deposit
19 is made. Section 77-2366 shall apply to deposits in capital stock
20 financial institutions. Section 77-2365.01 shall apply to deposits
21 in qualifying mutual financial institutions.

22 Sec. 12. Section 30-3209, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 30-3209 (1) Corporate trustees authorized by Nebraska law
25 to exercise fiduciary powers and holding retirement or pension

1 funds for the benefit of employees or former employees of cities,
2 villages, school districts, public power districts, or other
3 governmental or political subdivisions may invest and reinvest
4 such funds in such securities and investments as are authorized
5 for trustees, guardians, conservators, personal representatives, or
6 administrators under the laws of Nebraska. Retirement or pension
7 funds of such cities, villages, districts, or subdivisions may be
8 invested in annuities issued by life insurance companies authorized
9 to do business in Nebraska. Except as provided in subsection
10 (2) of this section, any other retirement or pension funds
11 of cities, including cities operating under home rule charters,
12 villages, school districts except as provided in section 79-9,107,
13 public power districts, and all other governmental or political
14 subdivisions may be invested and reinvested, as the governing body
15 of such city, village, school district, public power district, or
16 other governmental or political subdivision may determine, in the
17 following classes of securities and investments: (a) Bonds, notes,
18 or other obligations of the United States or those guaranteed
19 by or for which the credit of the United States is pledged
20 for the payment of the principal and interest or dividends
21 thereof; (b) bonds or other evidences of indebtedness of the
22 State of Nebraska and full faith and credit obligations of or
23 obligations unconditionally guaranteed as to principal and interest
24 by any other state of the United States; (c) bonds, notes, or
25 obligations of any municipal or political subdivision of the

1 State of Nebraska which are general obligations of the issuer
2 thereof and revenue bonds or debentures of any city, county, or
3 utility district of this state when the earnings available for
4 debt service have, for a five-year period immediately preceding
5 the date of purchase, averaged not less than one and one-half
6 times such debt service requirements; (d) bonds and debentures
7 issued either singly or collectively by any of the twelve federal
8 land banks, the twelve intermediate credit banks, or the thirteen
9 banks for cooperatives under the supervision of the Farm Credit
10 Administration; (e) certificates of deposit of banks which are
11 members of the Federal Deposit Insurance Corporation or capital
12 stock financial institutions, and if the amount deposited exceeds
13 the amount of insurance available thereon, then the excess shall
14 be secured in the same manner as for the deposit of public funds;
15 (f) accounts with building and loan associations, qualifying mutual
16 financial institutions, or federal savings and loan associations
17 in the State of Nebraska to the extent that such accounts are
18 insured or guaranteed by the Federal Deposit Insurance Corporation;
19 (g) bonds or other interest-bearing obligations of any corporation
20 organized under the laws of the United States or any state thereof
21 if (i) at the time the purchase is made, they are given, by at
22 least one statistical organization whose publication is in general
23 use, one of the three highest ratings given by such organization
24 and (ii) not more than five percent of the fund shall be invested
25 in the obligations of any one issuer; (h) direct short-term

1 obligations, generally classified as commercial paper, of any
2 corporation organized or existing under the laws of the United
3 States or any state thereof with a net worth of ten million dollars
4 or more; and (i) preferred or common stock of any corporation
5 organized under the laws of the United States or of any state
6 thereof with a net worth of ten million dollars or more if (i)
7 not more than fifty percent of the total investments at the time
8 such investment is made is in this class and not more than five
9 percent is invested in each of the first five years and (ii) not
10 more than five percent thereof is invested in the securities of any
11 one corporation. Notwithstanding the percentage limits stated in
12 this subsection, the cash proceeds of the sale of such preferred or
13 common stock may be reinvested in any securities authorized under
14 this subdivision. No city, village, school district, public power
15 district, or other governmental subdivision or the governing body
16 thereof shall be authorized to sell any securities short, buy on
17 margin, or buy, sell, or engage in puts and calls. Section 77-2366
18 shall apply to deposits in capital stock financial institutions.
19 Section 77-2365.01 shall apply to deposits in qualifying mutual
20 financial institutions.

21 (2) Notwithstanding the limitations prescribed in
22 subsection (1) of this section, trustees holding retirement or
23 pension funds for the benefit of employees or former employees
24 of any city of the metropolitan class, metropolitan utilities
25 district, or county in which a city of the metropolitan class is

1 located shall invest such funds in investments of the nature which
2 individuals of prudence, discretion, and intelligence acquire or
3 retain in dealing with the property of another. Such investments
4 shall not be made for speculation but for investment, considering
5 the probable safety of their capital as well as the probable income
6 to be derived. The trustees shall not buy on margin, buy call
7 options, or buy put options. The trustees may lend any security
8 if cash, United States Government obligations, or United States
9 Government agency obligations with a market value equal to or
10 exceeding the market value of the security lent are received as
11 collateral. If shares of stock are purchased under this subsection,
12 all proxies may be voted by the trustees. The asset allocation
13 restrictions set forth in subsection (1) of this section shall
14 not be applicable to the funds of pension or retirement systems
15 administered by or on behalf of a city of the metropolitan class,
16 metropolitan utilities district, or county in which a city of the
17 metropolitan class is located.

18 Sec. 13. Section 72-1268.03, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 72-1268.03 The state investment officer shall not have
21 on deposit in any bank, capital stock financial institution, or
22 qualifying mutual financial institution giving a guaranty bond
23 more than the amount insured or guaranteed by the Federal Deposit
24 Insurance Corporation plus the maximum amount of the bond given by
25 such bank, capital stock financial institution, or qualifying

1 mutual financial institution or in any bank, capital stock
2 financial institution, or qualifying mutual financial institution
3 giving a personal bond more than the amount insured or guaranteed
4 by the Federal Deposit Insurance Corporation plus one-half of the
5 amount of the bond given by such bank, capital stock financial
6 institution, or qualifying mutual financial institution. All bonds
7 of such depositories shall be deposited with and held by the state
8 investment officer.

9 Sec. 14. Section 77-2305, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 77-2305 The State Treasurer shall not have on deposit in
12 any bank giving a guaranty bond more than the amount insured or
13 guaranteed by the Federal Deposit Insurance Corporation plus the
14 maximum amount of the bond given by the bank, nor any bank giving
15 a personal bond more than the amount insured or guaranteed by the
16 Federal Deposit Insurance Corporation, plus one-half of the amount
17 of the bond of the bank. The amount deposited in any bank shall
18 not exceed the amount insured or guaranteed by the Federal Deposit
19 Insurance Corporation plus twice its capital stock and surplus,
20 but no bonds or giving of security shall be required for funds
21 over which the state investment officer has investment jurisdiction
22 except those funds which are eligible for long-term investment. All
23 bonds of such depositories shall be deposited with and held by the
24 State Treasurer.

25 Sec. 15. Section 77-2318, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 77-2318 The county treasurer shall not have on deposit
3 in any bank, capital stock financial institution, or qualifying
4 mutual financial institution at any time more money than the
5 amount insured or guaranteed by the Federal Deposit Insurance
6 Corporation, plus the maximum amount of the bond given by such
7 bank, capital stock financial institution, or qualifying mutual
8 financial institution in cases when the bank, capital stock
9 financial institution, or qualifying mutual financial institution
10 gives a guaranty bond except as provided in section 77-2318.01.
11 The amount on deposit at any time with any bank, capital stock
12 financial institution, or qualifying mutual financial institution
13 shall not exceed fifty percent of the capital and surplus of such
14 bank, capital stock financial institution, or qualifying mutual
15 financial institution except as provided in section 77-2318.01.
16 When the amount of money which the county treasurer desires
17 to deposit in the banks, capital stock financial institutions,
18 and qualifying mutual financial institutions within the county
19 exceeds fifty percent of the capital and surplus of all of the
20 banks, capital stock financial institutions, and qualifying mutual
21 financial institutions in such county, then the county treasurer
22 may, with the consent of the county board, deposit an amount in
23 excess thereof, but not exceeding the capital stock and surplus in
24 any one bank, capital stock financial institution, or qualifying
25 mutual financial institution unless the depository gives security

1 as provided in section 77-2318.01. Bond shall be required of all
2 banks, capital stock financial institutions, and qualifying mutual
3 financial institutions for such excess deposit unless security
4 is given in accordance with section 77-2318.01. The bonds shall
5 be deposited with the county clerk and approved by the county
6 board. Section 77-2366 shall apply to deposits in capital stock
7 financial institutions. Section 77-2365.01 shall apply to deposits
8 in qualifying mutual financial institutions.

9 Sec. 16. Section 77-2326.04, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 77-2326.04 No deposits in excess of the amount insured or
12 guaranteed by the Federal Deposit Insurance Corporation shall
13 be made to accumulate in any bank, capital stock financial
14 institution, or qualifying mutual financial institution designated
15 as a depository unless and until the county judge, clerk of the
16 county court, or clerk of the district court, as the case may
17 be, has received from such depository as security for the prompt
18 repayment by the depository of his or her respective deposits
19 in excess of the amount insured or guaranteed by the Federal
20 Deposit Insurance Corporation either a surety bond in form and with
21 corporate sureties approved by the county judge or judges or by
22 formal resolution of the county board, as the case may be, or in
23 lieu thereof, the giving of security as provided in the Public
24 Funds Deposit Security Act. Section 77-2366 shall apply to deposits
25 in capital stock financial institutions. Section 77-2365.01 shall

1 apply to deposits in qualifying mutual financial institutions.

2 Sec. 17. Section 77-2340, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-2340 The county treasurers of the various counties of
5 the state may, upon resolution of their respective county boards
6 authorizing the same, make time deposits in banks, capital stock
7 financial institutions, or qualifying mutual financial institutions
8 selected as depositories of county funds under the provisions of
9 sections 77-2312 to 77-2315. The time deposits shall bear interest
10 and shall be secured as set forth in section 77-2304 or 77-2320,
11 except that the amount insured or guaranteed by the Federal Deposit
12 Insurance Corporation shall be exempt from the requirement of being
13 secured as provided by section 77-2320 or by bonds similar to the
14 bond required and set forth in section 77-2304. Section 77-2366
15 shall apply to deposits in capital stock financial institutions.
16 Section 77-2365.01 shall apply to deposits in qualifying mutual
17 financial institutions.

18 Sec. 18. Section 77-2344, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 77-2344 No deposit in excess of the amount insured or
21 guaranteed by the Federal Deposit Insurance Corporation shall
22 be made in any bank, capital stock financial institution, or
23 qualifying mutual financial institution designated as a depository
24 unless and until the metropolitan utilities district has received
25 from such depository as security for the prompt repayment by

1 the depository either a corporate surety bond in form and with
2 sureties approved by formal resolution by the governing body of
3 such district or the giving of security as provided in the Public
4 Funds Deposit Security Act. Section 77-2366 shall apply to deposits
5 in capital stock financial institutions. Section 77-2365.01 shall
6 apply to deposits in qualifying mutual financial institutions.

7 Sec. 19. Section 77-2345, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-2345 No deposit shall be made in any designated bank,
10 capital stock financial institution, or qualifying mutual financial
11 institution (1) in excess of the amount insured or guaranteed by
12 the Federal Deposit Insurance Corporation or (2) in excess of
13 the obligation of the depository bond at the time any deposit of
14 funds is made or during the period in which the deposit of funds
15 remains in the depository. Section 77-2366 shall apply to deposits
16 in capital stock financial institutions. Section 77-2365.01 shall
17 apply to deposits in qualifying mutual financial institutions.

18 Sec. 20. Section 77-2352, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 77-2352 No deposit in excess of the amount insured or
21 guaranteed by the Federal Deposit Insurance Corporation shall
22 be made in any bank, capital stock financial institution, or
23 qualifying mutual financial institution designated as a depository
24 unless and until the treasurer or ex officio treasurer has received
25 from the depository as security for the prompt repayment by

1 the depository either a corporate surety bond in form and with
2 sureties approved by formal resolution by the governing body of
3 such district or the giving of security as provided in the Public
4 Funds Deposit Security Act. Section 77-2366 shall apply to deposits
5 in capital stock financial institutions. Section 77-2365.01 shall
6 apply to deposits in qualifying mutual financial institutions.

7 Sec. 21. Section 77-2355, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-2355 No deposits in excess of the amount insured
10 or guaranteed by the Federal Deposit Insurance Corporation shall
11 be made or be allowed to accumulate in any bank, capital stock
12 financial institution, or qualifying mutual financial institution
13 designated as a depository unless and until the treasurer or other
14 competent officer of the district has received from such depository
15 as security for the prompt repayment of such deposits by the
16 depository either a surety bond in form and with corporate sureties
17 approved by formal resolution of the board of directors of such
18 district or, in lieu thereof, the giving of security as provided
19 in the Public Funds Deposit Security Act. Section 77-2366 shall
20 apply to deposits in capital stock financial institutions. Section
21 77-2365.01 shall apply to deposits in qualifying mutual financial
22 institutions.

23 Sec. 22. Section 77-2362, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 77-2362 Whenever, by the laws of this state, any

1 municipal corporation or other governmental subdivision of the
2 state is authorized or required to obtain or accept from
3 banks, capital stock financial institutions, or qualifying mutual
4 financial institutions surety bonds or other bonds as security for
5 deposits of public funds belonging to such municipal corporation or
6 other governmental subdivision, the insurance or guarantee afforded
7 to depositors in banks, capital stock financial institutions,
8 or qualifying mutual financial institutions through the Federal
9 Deposit Insurance Corporation, organized under the laws of the
10 United States, shall be deemed and construed to be, for the
11 purposes of such laws, a surety bond or bonds to the extent that
12 such deposits are insured or guaranteed by such corporation, and
13 for deposits so insured or guaranteed, no other surety bond or
14 bonds or other security shall be required. Section 77-2366 shall
15 apply to deposits in capital stock financial institutions. Section
16 77-2365.01 shall apply to deposits in qualifying mutual financial
17 institutions.

18 Sec. 23. Section 77-2365.02, Revised Statutes Cumulative
19 Supplement, 2008, is amended to read:

20 77-2365.02 Notwithstanding any other provision of law,
21 to the extent that the funds of this state or any political
22 subdivision of this state may be invested, by the appropriate
23 custodian of such funds, in certificates of deposit or time
24 deposits with banks, capital stock financial institutions, or
25 qualifying mutual financial institutions, such authorization shall

1 include the investment of funds in certificates of deposit and time
2 deposits in accordance with the following conditions:

3 (1) The bank, capital stock financial institution, or
4 qualifying mutual financial institution in this state through which
5 the investment of funds is initially made arranges for the deposit
6 of a portion or all of such funds in one or more certificates of
7 deposit or time deposits with other banks, capital stock financial
8 institutions, or qualifying mutual financial institutions located
9 in the United States;

10 (2) Each such certificate of deposit or time deposit
11 is fully insured or guaranteed by the Federal Deposit Insurance
12 Corporation;

13 (3) The bank, capital stock financial institution,
14 or qualifying mutual financial institution through which the
15 investment of funds was initially made acts as a custodian for the
16 state or political subdivision with respect to any such certificate
17 of deposit or time deposit issued for the account of the state or
18 political subdivision; and

19 (4) At the same time that the funds are deposited into
20 and such certificates of deposit or time deposits are issued by
21 other banks, capital stock financial institutions, or qualifying
22 mutual financial institutions, the bank, capital stock financial
23 institution, or qualifying mutual financial institution through
24 which the investment of funds in certificates of deposit or time
25 deposits was initially made receives an amount of deposits from

1 customers of other banks, capital stock financial institutions,
2 or qualifying mutual financial institutions located in the United
3 States which is equal to or greater than the amount of the
4 investment of funds in certificates of deposit or time deposits
5 initially made by the state or political subdivision.

6 Sec. 24. Section 77-2375, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-2375 The secretary-treasurer shall not have on deposit
9 in any bank, capital stock financial institution, or qualifying
10 mutual financial institution at any time more money than the
11 amount insured or guaranteed by the Federal Deposit Insurance
12 Corporation, plus the maximum amount of the bond given by such
13 bank, capital stock financial institution, or qualifying mutual
14 financial institution in cases when the bank, capital stock
15 financial institution, or qualifying mutual financial institution
16 gives a guaranty bond, except as provided in section 77-2376.
17 The amount on deposit at any time with any bank, capital stock
18 financial institution, or qualifying mutual financial institution
19 shall not exceed fifty percent of the capital and surplus of such
20 bank, capital stock financial institution, or qualifying mutual
21 financial institution, except as provided in section 77-2376.
22 When the amount of money which the secretary-treasurer desires
23 to deposit in the banks, capital stock financial institutions,
24 or qualifying mutual financial institutions within the district
25 exceeds fifty percent of the capital and surplus of all of

1 the banks, capital stock financial institutions, or qualifying
2 mutual financial institutions in such local hospital district,
3 the secretary-treasurer may, with the consent of the board of
4 directors, deposit an amount in excess thereof, but not exceeding
5 the capital and surplus in any one bank, capital stock financial
6 institution, or qualifying mutual financial institution, unless
7 the depository gives security as provided in section 77-2376.
8 Bond shall be required of all banks, capital stock financial
9 institutions, or qualifying mutual financial institutions for such
10 excess deposit, unless security is given in accordance with section
11 77-2376. The bonds shall be deposited with the secretary-treasurer
12 and approved by the board of directors. Section 77-2366 shall
13 apply to deposits in capital stock financial institutions. Section
14 77-2365.01 shall apply to deposits in qualifying mutual financial
15 institutions.

16 Sec. 25. Section 77-2385, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-2385 The secretary-treasurers of the various local
19 hospital districts of the state may, upon resolution of their
20 respective boards of directors authorizing such action, make
21 time deposits in banks, capital stock financial institutions, or
22 qualifying mutual financial institutions selected as depositories
23 of the local hospital district funds under sections 77-2369 to
24 77-2372. The time deposits shall bear interest and shall be secured
25 as set forth in section 77-2304 or 77-2378, except that the amount

1 insured or guaranteed by the Federal Deposit Insurance Corporation
2 shall be exempt from the requirement of being secured as provided
3 by section 77-2378 or by bonds similar to the bond required and set
4 forth in section 77-2304. Section 77-2366 shall apply to deposits
5 in capital stock financial institutions. Section 77-2365.01 shall
6 apply to deposits in qualifying mutual financial institutions.

7 Sec. 26. For purposes of any law requiring a bank,
8 capital stock financial institution as defined under section
9 77-2366, or qualifying mutual financial institution as defined
10 under section 77-2365.01 to secure the deposit of public money or
11 public funds in excess of the amount insured by the Federal Deposit
12 Insurance Corporation, references to amounts insured by the Federal
13 Deposit Insurance Corporation shall include amounts guaranteed by
14 the Federal Deposit Insurance Corporation.

15 Sec. 27. Section 77-2387, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 77-2387 For purposes of the Public Funds Deposit Security
18 Act, unless the context otherwise requires:

19 (1) Affiliate means any entity that controls, is
20 controlled by, or is under common control with another entity;

21 (2) Bank means any state-chartered or federally chartered
22 bank which has a main chartered office in this state, any
23 branch thereof in this state, or any branch in this state of
24 a state-chartered or federally chartered bank which maintained a
25 main chartered office in this state prior to becoming a branch of

1 such state-chartered or federally chartered bank;

2 (3) Capital stock financial institution means a capital
3 stock state building and loan association, a capital stock federal
4 savings and loan association, a capital stock federal savings bank,
5 and a capital stock state savings bank, which has a main chartered
6 office in this state, any branch thereof in this state, or any
7 branch in this state of a capital stock financial institution which
8 maintained a main chartered office in this state prior to becoming
9 a branch of such capital stock financial institution;

10 (4) Control means to own directly or indirectly or to
11 control in any manner twenty-five percent of the voting shares of
12 any bank, capital stock financial institution, or holding company
13 or to control in any manner the election of the majority of
14 directors of any bank, capital stock financial institution, or
15 holding company;

16 (5) Custodial official means an officer or an employee of
17 the State of Nebraska or any political subdivision who, by law, is
18 made custodian of or has control over public money or public funds
19 subject to the act or the security for the deposit of public money
20 or public funds subject to the act;

21 (6) Deposit guaranty bond means a bond underwritten by
22 an insurance company authorized to do business in this state which
23 provides coverage for deposits of a governing authority which are
24 in excess of the amounts insured or guaranteed by the Federal
25 Deposit Insurance Corporation;

1 (7) Event of default means the issuance of an order
2 by a supervisory authority or a receiver which restrains a bank,
3 capital stock financial institution, or qualifying mutual financial
4 institution from paying its deposit liabilities;

5 (8) Governing authority means the official, or the
6 governing board, council, or other body or group of officials,
7 authorized to designate a bank, capital stock financial
8 institution, or qualifying mutual financial institution as a
9 depository of public money or public funds subject to the act;

10 (9) Governmental unit means the State of Nebraska or any
11 political subdivision thereof;

12 (10) Qualifying mutual financial institution shall have
13 the same meaning as in section 77-2365.01;

14 (11) Repurchase agreement means an agreement to purchase
15 securities by the governing authority by which the counterparty
16 bank, capital stock financial institution, or qualifying mutual
17 financial institution will repurchase the securities on or before
18 a specified date and for a specified amount and the counterparty
19 bank, capital stock financial institution, or qualifying mutual
20 financial institution will deliver the underlying securities
21 to the governing authority by book entry, physical delivery,
22 or third-party custodial agreement. The transfer of underlying
23 securities to the counterparty bank's, capital stock financial
24 institution's, or qualifying mutual financial institution's
25 customer book entry account may be used for book entry delivery if

1 the governing authority so chooses; and

2 (12) Securities means:

3 (a) Bonds or obligations fully and unconditionally
4 guaranteed both as to principal and interest by the United States
5 Government;

6 (b) United States Government notes, certificates of
7 indebtedness, or treasury bills of any issue;

8 (c) United States Government bonds;

9 (d) United States Government guaranteed bonds or notes;

10 (e) Bonds or notes of United States Government agencies;

11 (f) Bonds of any state or political subdivision which are
12 fully defeased as to principal and interest by any combination of
13 bonds or notes authorized in subdivision (c), (d), or (e) of this
14 subdivision;

15 (g) Bonds or obligations, including mortgage-backed
16 obligations, issued by the Federal Home Loan Mortgage Corporation,
17 the ~~federal farm credit system~~, Federal Farm Credit System,
18 a Federal Home Loan Bank, or the Federal National Mortgage
19 Association;

20 (h) Repurchase agreements the subject securities of which
21 are any of the securities described in subdivisions (a) through (g)
22 of this subdivision;

23 (i) Securities issued under the authority of the Federal
24 Farm Loan Act;

25 (j) Loan participations which carry the guarantee of

1 the Commodity Credit Corporation, an instrumentality of the United
2 States Department of Agriculture;

3 (k) Guaranty agreements of the Small Business
4 Administration of the United States Government;

5 (l) Bonds or obligations of any county, city, village,
6 metropolitan utilities district, public power and irrigation
7 district, sewer district, fire protection district, rural water
8 district, or school district in this state which have been issued
9 as required by law;

10 (m) Bonds of the State of Nebraska or of any other state
11 which are purchased by the Board of Educational Lands and Funds of
12 this state for investment in the permanent school fund or which
13 are purchased by the state investment officer of this state for
14 investment in the permanent school fund;

15 (n) Bonds or obligations of another state, or a political
16 subdivision of another state, which are rated within the two
17 highest classifications of prime by at least one of the standard
18 rating services;

19 (o) Warrants of the State of Nebraska;

20 (p) Warrants of any county, city, village, local hospital
21 district, or school district in this state;

22 (q) Irrevocable, nontransferable, unconditional standby
23 letters of credit issued by the Federal Home Loan Bank of Topeka;
24 and

25 (r) Certificates of deposit fully insured or guaranteed

1 by the Federal Deposit Insurance Corporation that are issued to
2 a bank, capital stock financial institution, or qualifying mutual
3 financial institution furnishing securities pursuant to the Public
4 Funds Deposit Security Act.

5 Sec. 28. Section 77-2388, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 77-2388 Any bank, capital stock financial institution, or
8 qualifying mutual financial institution subject to a requirement
9 by law to secure the deposit of public money or public funds in
10 excess of the amount insured or guaranteed by the Federal Deposit
11 Insurance Corporation may give security by furnishing securities
12 or providing a deposit guaranty bond pursuant to the Public Funds
13 Deposit Security Act in satisfaction of the requirement.

14 Sec. 29. Section 77-2389, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 77-2389 A bank, capital stock financial institution,
17 or qualifying mutual financial institution furnishes securities
18 pursuant to the Public Funds Deposit Security Act if it (1)
19 deposits securities held by the bank, capital stock financial
20 institution, or qualifying mutual financial institution, (2)
21 pledges or grants a security interest in securities held by the
22 bank, capital stock financial institution, or qualifying mutual
23 financial institution as provided in the act, or (3) effects the
24 assignment to the custodial official of a certificate of deposit
25 fully insured or guaranteed by the Federal Deposit Insurance

1 Corporation that is issued to the bank, capital stock financial
2 institution, or qualifying mutual financial institution.

3 Sec. 30. Section 77-2395, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-2395 (1) If a bank, capital stock financial
6 institution, or qualifying mutual financial institution designated
7 as a depository furnishes securities pursuant to section 77-2389,
8 the custodial official shall not have on deposit in such depository
9 any public money or public funds in excess of the amount insured
10 or guaranteed by the Federal Deposit Insurance Corporation, unless
11 and until the depository has furnished to the custodial official
12 securities, the market value of which are in an amount not less
13 than one hundred two percent of the amount on deposit which is in
14 excess of the amount so insured or guaranteed.

15 (2) If a bank, capital stock financial institution, or
16 qualifying mutual financial institution designated as a depository
17 furnishes securities pursuant to subsection (1) of section 77-2398,
18 the custodial official shall not have on deposit in such depository
19 any public money or public funds in excess of the amount insured
20 or guaranteed by the Federal Deposit Insurance Corporation, unless
21 and until the depository has furnished to the custodial official
22 securities, the market value of which are in an amount not less
23 than one hundred five percent of the amount on deposit which is in
24 excess of the amount so insured or guaranteed.

25 (3) If a bank, capital stock financial institution, or

1 qualifying mutual financial institution designated as a depository
2 provides a deposit guaranty bond pursuant to the ~~act~~, Public Funds
3 Deposit Security Act, the custodial official shall not have on
4 deposit in such depository any public money or public funds in
5 excess of the amount insured or guaranteed by the Federal Deposit
6 Insurance Corporation, unless and until the depository has provided
7 to the custodial official a deposit guaranty bond in an amount not
8 less than the amount on deposit which is in excess of the amount so
9 insured or guaranteed.

10 Sec. 31. Section 77-2398, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 77-2398 (1) As an alternative to the requirements to
13 secure the deposit of public money or public funds in excess of
14 the amount insured or guaranteed by the Federal Deposit Insurance
15 Corporation pursuant to sections 77-2389 and 77-2394, a bank,
16 capital stock financial institution, or qualifying mutual financial
17 institution designated as a public depository may secure the
18 deposits of one or more governmental units by providing a deposit
19 guaranty bond or by depositing, pledging, or granting a security
20 interest in a single pool of securities to secure the repayment
21 of all public money or public funds deposited in the bank,
22 capital stock financial institution, or qualifying mutual financial
23 institution by such governmental units and not otherwise secured
24 pursuant to law, if at all times the total value of the deposit
25 guaranty bond is at least equal to the amount on deposit which is

1 in excess of the amount so insured or guaranteed or the aggregate
2 market value of the pool of securities so deposited, pledged, or
3 in which a security interest is granted is at least equal to one
4 hundred five percent of the amount on deposit which is in excess of
5 the amount so insured or guaranteed. Each such bank, capital stock
6 financial institution, or qualifying mutual financial institution
7 shall carry on its accounting records at all times a general ledger
8 or other appropriate account of the total amount of all public
9 money or public funds to be secured by a deposit guaranty bond or
10 by the pool of securities, as determined at the opening of business
11 each day, and the total value of the deposit guaranty bond or
12 the aggregate market value of the pool of securities deposited,
13 pledged, or in which a security interest is granted to secure such
14 public money or public funds.

15 (2) Only the securities listed in subdivision (12) of
16 section 77-2387 may be provided and accepted as security for the
17 deposit of public money or public funds and shall be eligible as
18 collateral. The qualified trustee shall accept no security which is
19 not listed in subdivision (12) of section 77-2387.

20 Sec. 32. Section 77-23,100, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-23,100 (1) Any bank, capital stock financial
23 institution, or qualifying mutual financial institution in which
24 public money or public funds have been deposited which satisfies
25 its requirement to secure the deposit of public money or public

1 funds in excess of the amount insured or guaranteed by the
2 Federal Deposit Insurance Corporation by the deposit, pledge, or
3 granting of a security interest in a single pool of securities
4 shall designate a qualified trustee and place with the trustee
5 for holding the securities so deposited, pledged, or in which a
6 security interest has been granted pursuant to subsection (1) of
7 section 77-2398. The bank, capital stock financial institution, or
8 qualifying mutual financial institution shall give written notice
9 of the designation of the qualified trustee to any custodial
10 official depositing public money or public funds for which such
11 securities are deposited, pledged, or in which a security interest
12 has been granted, and if an affiliate of the bank, capital stock
13 financial institution, or qualifying mutual financial institution
14 is to serve as the qualified trustee, the notice shall disclose
15 the affiliate relationship and shall be given prior to designation
16 of the qualified trustee. The custodial official shall accept the
17 written receipt of the trustee describing the pool of securities
18 so deposited, pledged, or in which a security interest has been
19 granted by the bank, capital stock financial institution, or
20 qualifying mutual financial institution, a copy of which shall also
21 be delivered to the bank, capital stock financial institution, or
22 qualifying mutual financial institution.

23 (2) Any bank, capital stock financial institution,
24 or qualifying mutual financial institution which satisfies its
25 requirement to secure the deposit of public money or public funds

1 in excess of the amount insured or guaranteed by the Federal
2 Deposit Insurance Corporation under the Public Funds Deposit
3 Security Act by providing a deposit guaranty bond pursuant to the
4 provisions of subsection (1) of section 77-2398 shall designate a
5 qualified trustee and cause to be issued a deposit guaranty bond
6 which runs to the qualified trustee and which is conditioned that
7 the bank, capital stock financial institution, or qualifying mutual
8 financial institution shall render to the qualified trustee the
9 statement required under subsection (3) of this section.

10 (3) Each bank, capital stock financial institution,
11 or qualifying mutual financial institution which satisfies its
12 requirement to secure the deposit of public money or public funds
13 in excess of the amount insured or guaranteed by the Federal
14 Deposit Insurance Corporation by providing a deposit guaranty bond
15 or by depositing, pledging, or granting a security interest in a
16 single pool of securities shall, on or before the tenth day of
17 each month, render to the qualified trustee a statement showing as
18 of the last business day of the previous month (a) the amount of
19 public money or public funds deposited in such bank, capital stock
20 financial institution, or qualifying mutual financial institution
21 that is not insured or guaranteed by the Federal Deposit Insurance
22 Corporation (i) by each custodial official separately and (ii) by
23 all custodial officials in the aggregate and (b) the total value of
24 the deposit guaranty bond or the aggregate market value of the pool
25 of securities deposited, pledged, or in which a security interest

1 has been granted pursuant to subsection (1) of section 77-2398. Any
2 qualified trustee shall be authorized, acting for the benefit of
3 custodial officials, to take any and all actions necessary to take
4 title to or to effect a first perfected security interest in the
5 securities deposited, pledged, or in which a security interest is
6 granted.

7 (4) Within ten days after receiving the statement
8 required under subsection (3) of this section from a bank,
9 capital stock financial institution, or qualifying mutual financial
10 institution, the qualified trustee shall provide a report to each
11 custodial official listed in such statement reflecting (a) the
12 amount of public money or public funds deposited in such bank,
13 capital stock financial institution, or qualifying mutual financial
14 institution by each custodial official as of the last business day
15 of the previous month that is not insured or guaranteed by the
16 Federal Deposit Insurance Corporation and that is secured pursuant
17 to subsection (1) of section 77-2398 and (b) the total value of the
18 deposit guaranty bond or the aggregate market value of the pool of
19 securities deposited, pledged, or in which a security interest is
20 granted pursuant to subsection (1) of section 77-2398 as of the
21 last business day of the previous month. The report shall clearly
22 notify the custodial official if the value of the securities
23 deposited does not meet the statutory requirement.

24 Sec. 33. Section 77-23,101, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 77-23,101 Any Federal Reserve Bank, branch of a Federal
2 Reserve Bank, a federal home loan bank, or another responsible
3 bank which is authorized to exercise trust powers, capital stock
4 financial institution which is authorized to exercise trust powers,
5 qualifying mutual financial institution which is authorized to
6 exercise trust powers, or trust company, other than the pledgor
7 or the bank, capital stock financial institution, or qualifying
8 mutual financial institution providing the deposit guaranty bond or
9 granting the security interest, is qualified to act as a qualified
10 trustee for the receipt of a deposit guaranty bond or the holding
11 of securities under section 77-23,100. The bank, capital stock
12 financial institution, or qualifying mutual financial institution
13 in which public money or public funds are deposited may at any
14 time substitute, exchange, or release securities deposited with a
15 qualified trustee if such substitution, exchange, or release does
16 not reduce the aggregate market value of the pool of securities to
17 an amount that is less than one hundred five percent of the total
18 amount of public money or public funds less the portion of such
19 public money or public funds insured or guaranteed by the Federal
20 Deposit Insurance Corporation. The bank, capital stock financial
21 institution, or qualifying mutual financial institution in which
22 public money or public funds are deposited may at any time reduce
23 the amount of the deposit guaranty bond if the reduction does not
24 reduce the value of the deposit guaranty bond to an amount less
25 than the total amount of public money or public funds less the

1 portion of such public money or public funds insured or guaranteed
2 by the Federal Deposit Insurance Corporation.

3 Sec. 34. Section 77-23,102, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-23,102 (1) If a bank, capital stock financial
6 institution, or qualifying mutual financial institution experiences
7 an event of default the qualified trustee shall proceed in
8 the following manner: (a) The qualified trustee shall ascertain
9 the aggregate amounts of public money or public funds secured
10 pursuant to subsection (1) of section 77-2398 and deposited in the
11 bank, capital stock financial institution, or qualifying mutual
12 financial institution which has defaulted, as disclosed by the
13 records of such bank, capital stock financial institution, or
14 qualifying mutual financial institution. The qualified trustee
15 shall determine for each custodial official for whom public money
16 or public funds are deposited in the defaulting bank, capital stock
17 financial institution, or qualifying mutual financial institution
18 the accounts and amount of federal deposit insurance or guarantee
19 that is available for each account. It shall then determine
20 for each such custodial official the amount of public money or
21 public funds not insured or guaranteed by the Federal Deposit
22 Insurance Corporation and the amount of the deposit guaranty bond
23 or pool of securities pledged, deposited, or in which a security
24 interest has been granted to secure such public money or public
25 funds. Upon completion of this analysis, the qualified trustee

1 shall provide each such custodial official with a statement that
2 reports the amount of public money or public funds deposited
3 by the custodial official in the defaulting bank, capital stock
4 financial institution, or qualifying mutual financial institution,
5 the amount of public money or public funds that may be insured
6 or guaranteed by the Federal Deposit Insurance Corporation, and
7 the amount of public money or public funds secured by a deposit
8 guaranty bond or secured by a pool of securities pursuant to
9 subsection (1) of section 77-2398. Each such custodial official
10 shall verify this information from his or her records within ten
11 business days after receiving the report and information from the
12 qualified trustee; and (b) upon receipt of a verified report from
13 such custodial official and if the defaulting bank, capital stock
14 financial institution, or qualifying mutual financial institution
15 is to be liquidated or if for any other reason the qualified
16 trustee determines that public money or public funds are not likely
17 to be promptly paid upon demand, the qualified trustee shall
18 proceed to enforce the deposit guaranty bond or liquidate the
19 pool of securities held to secure the deposit of public money or
20 public funds and shall repay each custodial official for the public
21 money or public funds not insured or guaranteed by the Federal
22 Deposit Insurance Corporation deposited in the bank, capital stock
23 financial institution, or qualifying mutual financial institution
24 by the custodial official. In the event that the amount of the
25 deposit guaranty bond or the proceeds of the securities held by

1 the qualified trustee after liquidation is insufficient to cover
2 all public money or public funds not insured or guaranteed by the
3 Federal Deposit Insurance Corporation for all custodial officials
4 for whom the qualified trustee serves, the qualified trustee shall
5 pay out to each custodial official available amounts pro rata in
6 accordance with the respective public money or public funds not
7 insured or guaranteed by the Federal Deposit Insurance Corporation
8 for each such custodial official.

9 (2) In the event that a federal deposit insurance agency
10 is appointed and acts as a liquidator or receiver of any bank,
11 capital stock financial institution, or qualifying mutual financial
12 institution under state or federal law, those duties under this
13 section that are specified to be performed by the qualified trustee
14 in the event of default may be delegated to and performed by such
15 federal deposit insurance agency.

16 Sec. 35. Section 77-23,105, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-23,105 Upon request of a custodial official, a bank,
19 capital stock financial institution, or qualifying mutual financial
20 institution shall report as of the date of such request the
21 amount of public money or public funds deposited in such bank,
22 capital stock financial institution, or qualifying mutual financial
23 institution that is not insured or guaranteed by the Federal
24 Deposit Insurance Corporation (1) by the custodial official making
25 the request and (2) by all other custodial officials and secured

1 pursuant to subsection (1) of section 77-2398, and the total
2 value of the deposit guaranty bond or the aggregate market value
3 of the pool of securities deposited, pledged, or in which a
4 security interest has been granted to secure public money or public
5 funds held by the bank, capital stock financial institution, or
6 qualifying mutual financial institution, including those deposited
7 by the custodial official. Upon request of a custodial official, a
8 qualified trustee shall report as of the date of such request the
9 total value of the deposit guaranty bond or the aggregate market
10 value of the pool of securities deposited, pledged, or in which
11 a security interest has been granted by the bank, capital stock
12 financial institution, or qualifying mutual financial institution
13 and shall provide an itemized list of the securities in the pool.
14 Such reports shall be made on or before the date the custodial
15 official specifies.

16 Sec. 36. The Revisor of Statutes shall assign section 26
17 of this act to Chapter 77, article 23.

18 Sec. 37. Original sections 2-4214, 12-1102, 12-1107,
19 14-556, 15-847, 15-849, 16-713, 16-715, 16-716, 17-607, 17-720,
20 30-3209, 72-1268.03, 77-2305, 77-2318, 77-2326.04, 77-2340,
21 77-2344, 77-2345, 77-2352, 77-2355, 77-2362, 77-2375, 77-2385,
22 77-2388, 77-2389, 77-2395, 77-2398, 77-23,100, 77-23,101,
23 77-23,102, and 77-23,105, Reissue Revised Statutes of Nebraska,
24 and sections 77-2365.02 and 77-2387, Revised Statutes Cumulative
25 Supplement, 2008, are repealed.

LB 259

LB 259

1 Sec. 38. Since an emergency exists, this act takes effect
2 when passed and approved according to law.